

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KINETIC SYSTEMS, INC., a California
corporation,

Plaintiff,

v.

GRAY CONSTRUCTION, INC., a
Kentucky corporation; TRAVELERS
CASUALTY AND SURETY COMPANY
OF AMERICA, a Connecticut corporation;
TRAVELERS CASUALTY AND SURETY
COMPANY; a Connecticut corporation; ST.
PAUL FIRE AND MARINE INSURANCE
COMPANY, a Connecticut corporation,

Defendants.

No. 3:20-cv-00939-JR

ORDER REFERRING CASE TO
ARBITRATION

The parties having stipulated to the Plaintiff Kinetic Systems, Inc.'s Unopposed
Stipulated Motion to Arbitrate This Dispute and Stay Proceedings [11] and the Court being duly
advised, IT IS HEREBY ORDERED as follows:

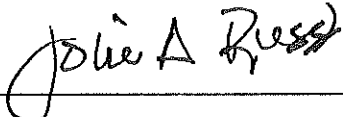
- i) All claims asserted by plaintiff Kinetic Systems Inc., ("KSI") against defendant Gray
Construction, Inc. ("Gray") in the present action shall be submitted to binding
arbitration.

- ii) This action is stayed in its entirety pending the outcome of arbitration.
- iii) The venue of the arbitration shall be Lexington, Kentucky.
- iv) The threshold issue of joinder/consolidation of claims and counterclaims arising from the Texas Project and Oregon Project, as those terms are defined in and set forth in Gray's Notice of Arbitration filed with the International Institute for Conflict Prevention and Resolution on or about February 3, 2020, shall be decided by a single arbitrator selected as follows: Gray will propose three qualified arbitrators. Kinetics will select one of the three proposed by Gray. The single arbitrator shall then be jointly appointed by the parties, and she or he will not be eligible to serve on the arbitration panel that will hear and rule on the merits of the dispute. The decision of the single arbitrator on the issue of joinder/consolidation shall be final and binding on the parties.
- v) All other disputes between KSI and Gray arising out of or relating to the Texas Project and Oregon Project, whether procedural or substantive, including their disputes concerning choice of governing law, shall be decided in arbitration in accordance with the Center for Public Resources Rules for Non-Administered Arbitration of Business Disputes and the parties' subcontracts.
- vi) Defendant Gray Construction, Inc.'s Motion to Compel Arbitration and to Dismiss Action Pursuant to the Federal Arbitration Act [6] and Defendant Travelers Casualty and Surety Company of America's Joinder in Gray Construction, Inc.'s Motion to Compel Arbitration and to Dismiss the Action [9] are deemed withdrawn.

The Court has reviewed the reasons offered in support of entry of this Order Referring Case to Arbitration and finds that there is good cause to enter this Order. Accordingly, the Court adopts the above Order Referring Case to Arbitration.

IT IS SO ORDERED

DATED: 7/08/2020



Honorable Magistrate Judge Jolie A. Russo